

FIRST REGULAR SESSION

# SENATE BILL NO. 348

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS KOSTER AND GREEN.

Read 1st time January 23, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1660S.02I

## AN ACT

To repeal sections 172.360, 174.130, 178.635, and 178.780, RSMo, and to enact in lieu thereof twenty new sections relating to the Missouri omnibus immigration act, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 172.360, 174.130, 178.635, and 178.780, RSMo, are  
2 repealed and twenty new sections enacted in lieu thereof, to be known as sections  
3 28.800, 28.803, 28.806, 28.809, 28.812, 28.815, 28.818, 28.821, 28.824, 28.827,  
4 28.830, 28.833, 79.980, 172.360, 174.130, 175.025, 178.635, 178.780, 178.786, and  
5 208.009, to read as follows:

**28.800. Sections 28.800 to 28.833, section 79.980, RSMo, section  
2 172.360, RSMo, section 174.130, RSMo, section 175.025, RSMo, sections  
3 178.635, 178.780, 178.786, RSMo, section 208.009, RSMo, section 285.025,  
4 RSMo, and section 290.560, RSMo, shall be known and may be cited as  
5 the "Missouri Omnibus Immigration Act". All officials, agencies, and  
6 personnel covered by the provisions of this act shall fully comply with,  
7 and, to the full extent permitted by law, support the enforcement of  
8 federal law prohibiting the entry into, presence, or residence in the  
9 United States of aliens in violation of federal immigration law.**

**28.803. The purpose of the Missouri Omnibus Immigration Act is  
2 to assist the federal government in enforcing federal immigration law  
3 to its full extent. Sections 28.800 to 28.833, section 79.980, RSMo,  
4 section 172.360, RSMo, section 174.130, RSMo, section 175.025, RSMo,  
5 sections 178.635, 178.780, 178.786, RSMo, section 208.009, RSMo, section  
6 285.025, RSMo, and section 290.560, RSMo, enhance five areas of state**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

7 law in order to allow the enforcement of federal law. In no way should  
8 this legislation be viewed as Missouri's attempt to occupy the  
9 immigration field which should be occupied solely by the federal  
10 government. Rather, sections 28.800 to 28.833, section 79.980, RSMo,  
11 section 172.360, RSMo, section 174.130, RSMo, section 175.025, RSMo,  
12 sections 178.635, 178.780, 178.786, RSMo, section 208.009, RSMo, section  
13 285.025, RSMo, and section 290.560, RSMo, use the inherent powers of  
14 the state of Missouri in its own areas of law that indirectly affect  
15 immigration. In this way the Missouri Omnibus Immigration Act is  
16 fully constitutional.

28.806. 1. The general assembly of the state of Missouri finds  
2 that employers in this state who use illegal laborers have  
3 systematically distorted the labor market of this state by reducing  
4 wages, adversely affecting working conditions, evading taxes, and  
5 reducing the number of jobs available to those who are lawfully  
6 entitled to employment in Missouri. Employment of illegal laborers  
7 should be viewed as any other illegal business practice, that is, a means  
8 to exploit others and to gain an advantage over law-abiding  
9 competitors.

2. The general assembly of the state of Missouri further finds  
11 that the United States, through the U.S. Department of Homeland  
12 Security, has established and maintains a national program for the  
13 electronic verification of work authorization, the basic pilot program,  
14 which enables employers to promptly and accurately verify the  
15 employment eligibility of all job applicants.

3. State and federal law require that certain conditions be met  
17 before a person may be authorized to work or reside in the United  
18 States.

4. Unlawful workers and illegal aliens, as defined by sections  
20 28.800 to 28.833 and state and federal law, do not meet such conditions  
21 as a matter of law when present in the state of Missouri.

5. Unlawful employment, the harboring of illegal aliens in  
23 dwelling units in the state of Missouri, and crime committed by illegal  
24 aliens harm the health, safety and welfare of authorized U.S. workers  
25 and legal residents in the state of Missouri.

6. The federal government has neglected to properly protect the  
27 citizens of the state of Missouri from the adverse effects of

28 unauthorized employment, harboring of illegal aliens, and the activities  
29 of criminal aliens.

30 7. The state of Missouri finds that it is in the best interests of the  
31 state and that it will benefit the health, safety and welfare of the public  
32 to adopt policies and procedures to deter and prevent unauthorized  
33 employment, harboring of illegal aliens, and criminal activity by illegal  
34 aliens.

35 8. 8 U.S.C. 1324(a)(1)(A) prohibits the harboring of illegal  
36 aliens. The state of Missouri finds that the housing of illegal aliens is  
37 a fundamental component of harboring.

28.809. As used in sections 28.800 to 28.833, the following terms  
2 shall have the following meanings:

3 (1) "Basic pilot program", the electronic verification of work  
4 authorization program of the Illegal Immigration Reform and  
5 Immigrant Responsibility Act of 1996, P.L. 104-208, Division C, Section  
6 403(a); 8 U.S.C. 1324a, and operated by the United States Department  
7 of Homeland Security or its successor program;

8 (2) "Business entity", any person or group of persons performing  
9 or engaging in any activity, enterprise, profession, or occupation for  
10 gain, benefit, advantage, or livelihood, whether for profit or not for  
11 profit. The term "business entity" shall include but not be limited to  
12 self-employed individuals, partnerships, corporations, contractors, and  
13 subcontractors. The term business entity shall include any business  
14 entity that possesses a business permit, license, or tax certificate issued  
15 by the state, any business entity that is exempt by law from obtaining  
16 such a business permit, and any business entity that is operating  
17 unlawfully without such a business permit;

18 (3) "Contractor", a person, employer, or business entity that  
19 enters into an agreement to perform any service or work or to provide  
20 a certain product in exchange for valuable consideration. This  
21 definition shall include but not be limited to a subcontractor,  
22 independent contractor, contract employee, or a recruiting or staffing  
23 entity;

24 (4) "Division", the division of immigration compliance under the  
25 office of the secretary of state;

26 (5) "Employee", any person performing or applying for work or  
27 service of any kind or character for hire;

28           (6) "Employer", any person employing or seeking to employ any  
29 person for hire. Where there are two or more putative employers, any  
30 person or entity taking a business tax deduction for the employee in  
31 question shall be considered an employer of that person for purposes  
32 of sections 28.800 to 28.833;

33           (7) "Employment", the act of employing or state of being  
34 employed, engaged, or hired;

35           (8) "Illegal alien", an alien who is not lawfully present in the  
36 United States, according to the terms of 8 U.S.C. 1101, et seq. The state  
37 of Missouri shall not conclude that a person is an illegal alien unless  
38 and until an authorized representative of the state of Missouri has  
39 verified with the federal government, under 8 U.S.C. 1373(c), that the  
40 person is an alien who is not lawfully present in the United States;

41           (9) "Law enforcement", any peace officer as defined in section  
42 590.010, RSMo;

43           (10) "Law enforcement agency", any agency employing law  
44 enforcement officers;

45           (11) "Unauthorized alien", an alien who does not have the legal  
46 right or authorization under federal law to work in the United States,  
47 as defined by 8 U.S.C. 1324a(h)(3);

48           (12) "Work", any job, task, employment, labor, personal services,  
49 or any other activity for which compensation is provided, expected, or  
50 due, including but not limited to all activities conducted by business  
51 entities.

          28.812. 1. It is unlawful for any business entity to employ,  
2 recruit, hire for employment, or continue to employ an unauthorized  
3 alien to perform work within the state of Missouri.

4           2. As a condition for the initial registration for any business  
5 entity in the state of Missouri, all business entities shall, by sworn  
6 affidavit and provision of documentation, affirm their enrollment and  
7 active participation in the basic pilot program. Every business entity  
8 shall also sign an affidavit affirming that it does not knowingly  
9 employ any person who is an unauthorized alien.

10          3. As a condition of the periodic renewal of a business license or  
11 registration, all employers registered or licensed within the state of  
12 Missouri shall, by sworn affidavit and provision of documentation,  
13 affirm their enrollment and active participation in the basic pilot

14 **program.**

15           **4. As a condition for the award of any state contract or grant to**  
16 **a business entity for which the value of employment, labor or, personal**  
17 **services shall exceed ten thousand dollars, the business entity shall**  
18 **provide documentation affirming its enrollment and participation in**  
19 **the basic pilot program.**

20           **5. All state employers, state political subdivision employers, and**  
21 **local government employers shall enroll and actively participate in the**  
22 **basic pilot program.**

23           **6. An employer participating in the basic pilot program shall**  
24 **verify the employment eligibility of every employee in the employer's**  
25 **hire whose employment commences after the employer enrolls in the**  
26 **basic pilot program.**

27           **7. Compensation, whether in money or in kind or in services,**  
28 **provided to any unauthorized alien shall not be allowed as a business**  
29 **expense deduction from any income or business taxes of this state.**

30           **8. Any entity operating in this state in violation of sections**  
31 **28.800 to 28.812, shall have its certificates of incorporation, or other**  
32 **pertinent state business licenses or registrations, suspended after**  
33 **written notice by the division of pending suspension and the tolling of**  
34 **a ninety-day period, during which such entity shall have opportunity**  
35 **to challenge the suspension or remedy the violation under section**  
36 **28.815.**

**28.815. 1. The secretary of state shall enforce the requirements**  
2 **of sections 28.800 to 28.812.**

3           **2. An enforcement action shall be initiated by means of a written,**  
4 **signed complaint to the secretary of state's office submitted by any**  
5 **state official, business entity, or state resident. A valid complaint shall**  
6 **include an allegation which describes the alleged violator as well as the**  
7 **actions constituting the violation, and the date and location where such**  
8 **actions occurred.**

9           **3. A complaint which alleges a violation solely or primarily on**  
10 **the basis of national origin, ethnicity, or race shall be deemed invalid**  
11 **and shall not be enforced.**

12           **4. Upon receipt of a valid complaint, the division shall, within**  
13 **ten business days, request identity information from the business entity**  
14 **regarding any persons alleged to be unauthorized aliens. The division**

15 shall suspend the business license of, and shall direct the applicable  
16 municipal or county governing body to suspend any applicable license  
17 of any business entity which fails, within ten business days after  
18 receipt of the request, to provide such information.

19 5. The division, after receiving the requested identity  
20 information from the business entity, shall submit identity data  
21 required by the federal government to verify, under 8 U.S.C. 1373, the  
22 immigration status of such persons, and shall provide the business  
23 entity with written confirmation of that verification.

24 6. The secretary of state shall direct the applicable municipal or  
25 county governing body to suspend the business permit and any  
26 applicable licenses or exemptions of any business entity which fails to  
27 correct a violation of sections 28.800 to 28.812, within ten business days  
28 after notification of the violation by the secretary of state.

29 7. The correction of a violation with respect to the employment  
30 of an unlawful worker shall include any of the following actions:

31 (1) The business entity terminates the unauthorized alien's  
32 employment;

33 (2) The business entity, after acquiring additional information  
34 from the employee, requests a secondary or additional verification by  
35 the federal government of the employee's authorization, under the  
36 procedures of the basic pilot program. While this verification is  
37 pending, the ten business day period referenced in subsection 6 of this  
38 section shall be tolled;

39 (3) The business entity attempts to terminate the unlawful  
40 worker's employment and such termination is challenged in a court of  
41 the state of Missouri. While the business entity pursues the termination  
42 of the unauthorized alien's employment in such forum, the ten business  
43 day period referenced in subsection 6 of this section shall be tolled.

44 8. The secretary of state shall not direct the applicable municipal  
45 or county governing body to suspend the business permit or any  
46 applicable license or exemptions of a business entity if, prior to the  
47 date of the violation, the business entity had verified the work  
48 authorization of the alleged unauthorized alien using the basic pilot  
49 program.

50 9. The suspension of a business license or licenses under this  
51 section shall terminate one business day after a legal representative of

52 the business entity submits, at an office designated by the secretary of  
53 state, a sworn affidavit stating that the violation has ended.

54 (1) The affidavit shall include a description of the specific  
55 measures and actions taken by the business entity to end the violation,  
56 and shall include the name, address and other adequate identifying  
57 information for any unauthorized aliens related to the complaint.

58 (2) Where two or more of the alleged unauthorized aliens were  
59 verified to be unauthorized aliens, the legal representative of the  
60 business entity shall submit to the secretary of state, in addition to the  
61 prescribed affidavit, documentation acceptable to the secretary of state  
62 which confirms that the business entity has enrolled in and is  
63 participating in the basic pilot program.

64 10. For a second or subsequent violation, the secretary of state  
65 shall direct the applicable municipal or county governing body to  
66 suspend the business permit and any applicable license or exemptions  
67 of the business entity for a period of ten days. After the end of the  
68 suspension period, and upon receipt of the prescribed affidavit, the  
69 secretary of state shall reinstate the business permit and any  
70 applicable license or exemptions. The secretary of state shall forward  
71 the affidavit, complaint, and associated documents to the Bureau of  
72 Immigration and Customs Enforcement of the United States  
73 Department of Homeland Security.

74 11. Any city or county governing body in the state of Missouri  
75 that fails to comply with this section and directives from the secretary  
76 of state regarding the failure of any business to enroll in the basic pilot  
77 program, shall be ineligible for state funding.

78 12. Sections 28.800 to 28.833 shall not be construed to deny any  
79 procedural mechanisms included in the basic pilot program.

80 13. Any business entity subject to a complaint and subsequent  
81 enforcement under this section, or any employee of such a business  
82 entity, may challenge the enforcement of this section with respect to  
83 such entity or employee in the courts of the state of Missouri.

84 14. The determination of whether a worker is an unauthorized  
85 alien shall be made by the federal government, under 8 U.S.C. 1373(c)A  
86 determination of such status of an individual by the federal  
87 government shall create a rebuttable presumption as to that  
88 individual's status in any judicial proceedings brought under sections

89 28.800 to 28.812. The court may take judicial notice of any verification  
90 of an individual's status previously provided by the federal government  
91 and may request the federal government to provide automated or  
92 testimonial verification under 8 U.S.C. 1373(c).

93 15. (1) A general contractor will not be held liable under this  
94 section if:

95 (a) The general contractor verifies that all subcontractors and  
96 independent contractors hired by the general contractor have enrolled  
97 with the basic pilot program; and

98 (b) The general contractor reasonably believes that the  
99 subcontractors and independent contractors hired by the general  
100 contractor have complied with this section.

101 (2) If a general contractor fails to comply with either of the  
102 provisions in subsection 1 of this section, he or she may be found liable  
103 for all violations of any subcontractor or independent contractor under  
104 the employ of the general contractor.

105 16. If the federal government notifies the division that it is  
106 unable to verify whether an employee is authorized to work in the  
107 United States, the division shall take no further action on the  
108 complaint until a verification from the federal government concerning  
109 the status of the individual is received. At no point shall any state  
110 official attempt to make an independent determination of any alien's  
111 legal status without verification from the federal government under the  
112 8 U.S.C. 1373(c).

28.818. 1. It is unlawful for any person or business entity that  
2 owns a dwelling unit in the state of Missouri to harbor an illegal alien  
3 in the dwelling unit, knowing or in reckless disregard of the fact that  
4 an alien has come to, entered, or remains in the United States in  
5 violation of law, unless such harboring is otherwise expressly permitted  
6 by federal law.

7 2. For the purposes of this section, to let, lease, or rent a  
8 dwelling unit to an illegal alien, knowing or in reckless disregard of the  
9 fact that an alien has come to, entered, or remains in the United States  
10 in violation of law, shall be deemed to constitute harboring. To suffer  
11 or permit the occupancy of the dwelling unit by an illegal alien,  
12 knowing or in reckless disregard of the fact that an alien has come to,  
13 entered, or remains in the United States in violation of law, shall also

14 **be deemed to constitute harboring.**

15 **3. A separate violation shall be deemed to have been committed**  
16 **on each day that such harboring occurs, and for each adult illegal alien**  
17 **harbored in the dwelling unit, beginning one business day after receipt**  
18 **of a notice of violation from the division.**

19 **4. A separate violation of this section shall be deemed to have**  
20 **been committed for each business day on which the owner has failed,**  
21 **following written notice from the division, to provide the division with**  
22 **identity data needed to obtain a federal verification of immigration**  
23 **status, beginning ten days after the owner receives written notice from**  
24 **the division.**

25 **5. It shall be a condition of all contracts to let, lease, or rent**  
26 **dwelling units in the state of Missouri that an owner may not harbor**  
27 **any adult illegal alien in any dwelling unit, and an illegal alien may not**  
28 **reside in any dwelling unit. Any violation of this condition shall be**  
29 **deemed a breach of contract and shall require eviction of any tenant**  
30 **who is an illegal alien.**

**28.821. 1. The secretary of state shall enforce the requirements**  
2 **of this section.**

3 **2. An enforcement action shall be initiated by means of a written,**  
4 **signed complaint to the division submitted by any official, business**  
5 **entity, or resident of the state. A valid complaint shall include an**  
6 **allegation which describes the alleged violator or violators as well as**  
7 **the actions constituting the violation, and the date and location where**  
8 **such actions occurred.**

9 **3. A complaint which alleges a violation solely or primarily on**  
10 **the basis of national origin, ethnicity, or race shall be deemed invalid**  
11 **and shall not be enforced.**

12 **4. Upon receipt of a valid written complaint, the Division shall,**  
13 **under 8 U.S.C. 1373(c), verify with the federal government the lawful**  
14 **immigration status of a person seeking to use, occupy, lease, or rent a**  
15 **dwelling unit in the state. The agency shall submit identity data**  
16 **required by the federal government to verify immigration status. The**  
17 **division shall forward identity data provided by the owner to the**  
18 **federal government, and shall provide the property owner with written**  
19 **confirmation of that verification.**

20 **5. The written confirmation from the division must expressly**

21 state that the property owner is in violation of state law and that such  
22 property owner has ten days to contact the division and submit a notice  
23 of contest and supporting documentation demonstrating the lawful  
24 immigration status of the person seeking to use, occupy, lease, or rent  
25 a dwelling unit in the state. If the property owner does not submit a  
26 notice of contest and supporting documentation, the division will  
27 proceeding according to this section.

28 6. If a property owner submits a notice of contest, the division  
29 shall not make any judgment as to the immigration status of a person  
30 seeking to use, occupy, lease, or rent a dwelling unit in the  
31 state. Instead, upon receipt of the notice of contest, the division shall  
32 forward supporting documentation to the United States Department of  
33 Homeland Security to verify the lawful immigration status of the  
34 person seeking to use, occupy, lease, or rent a dwelling unit in the  
35 state, under 8 U.S.C. 1373(c).

36 7. Upon receiving a second verification that the person seeking  
37 to use, occupy, lease, or rent a dwelling unit in the state is unlawfully  
38 present in the United States, the division shall provide the property  
39 owner with written confirmation of the second verification and proceed  
40 according to this section.

41 8. Within ten business days after the date on which the division  
42 has provided the owner with notice of verification of the violation, the  
43 division shall cause the denial or suspension of the rental license or  
44 occupancy permit of a dwelling unit whose owner has failed to correct  
45 a violation of this section. If after ten business days following receipt  
46 of written notice from the division that a violation has occurred and  
47 that the immigration status of any alleged illegal alien has been  
48 verified, under 8 U.S.C. 1373(c), the owner of the dwelling unit fails to  
49 correct a violation of this section, the division shall cause the denial or  
50 suspension of the rental license or occupancy permit of the dwelling  
51 unit.

52 9. For the period of suspension, neither the owner of the  
53 dwelling unit or a managing entity or person shall be permitted to  
54 collect any rent, payment, fee, or any other form of compensation from,  
55 or on behalf of, any tenant or occupant in the dwelling unit being  
56 occupied by the illegal alien. In the case of a multi-family residency,  
57 the term dwelling unit applies to only the rented apartment harboring

58 an illegal alien, and does not apply to the other apartments in the  
59 remainder of the building.

60       10. The denial or suspension shall terminate one business day  
61 after a legal representative of the dwelling unit owner submits, at a  
62 state office designated by the division, a sworn affidavit stating that  
63 each and every violation has ended. The affidavit shall include a  
64 description of the specific measures and actions taken by the business  
65 entity to end the violation, and shall include the name, address, and  
66 other adequate identifying information for the illegal aliens who were  
67 the subject of the complaint.

68       11. The division shall forward the affidavit, complaint, and  
69 associated documents to the appropriate local or federal enforcement  
70 agency.

71       12. Any dwelling unit owner who commits a second or  
72 subsequent violation of this section shall be subject to a fine of one  
73 hundred dollars for each separate violation. The suspension provisions  
74 of this section applicable to a first violation shall also apply and any  
75 second or subsequent violation.

76       13. Upon the request of a dwelling unit owner and the provisions  
77 of appropriate identification information, the division shall, under 8  
78 U.S.C. 1373(c), verify with the federal government the lawful  
79 immigration status of a person seeking to use, occupy, lease, or rent a  
80 dwelling unit in the state. The penalties in this section shall not apply  
81 in the case of dwelling unit occupants whose status as an alien lawfully  
82 present in the United States has been verified.

83       14. The correction of a violation with respect to the harboring of  
84 an illegal alien in a dwelling unit shall include any of the following  
85 actions:

86       (1) A notice to quit, in writing, issued and served by the dwelling  
87 unit owner, as landlord, to the tenant declaring a forfeiture of the  
88 lease; or

89       (2) The commencement of an action for the recovery of  
90 possession of real property by the dwelling unit owner against the  
91 illegal alien. If such action is contested by the tenant in court, the  
92 dwelling unit owner shall be deemed to have complied with this section  
93 while the dwelling unit owner is pursuing the action in court. While  
94 this process is pending, the ten business day period referenced in

95 subsection 8 of this section shall be tolled; or

96 (3) The termination of the occupancy of the use and occupancy  
97 of the dwelling unit by the illegal alien.

98 15. If the federal government notifies the division that it is  
99 unable to verify whether a tenant is lawfully present in the United  
100 States, the division shall take no further action on the complaint until  
101 a verification from the federal government concerning the status of the  
102 individual is received. At no point shall any state official attempt to  
103 make an independent determination of any alien's legal status, without  
104 verification from the federal government, under 8 U.S.C. 1373(c).

105 16. Any rental unit owner subject to a complaint and subsequent  
106 enforcement under this section, or any tenant of such a rental unit  
107 owner, may challenge the enforcement of this section with respect to  
108 such entity or individual in the courts of the state of Missouri.

109 17. The determination of whether a tenant of a dwelling unit is  
110 lawfully present in the United States shall be made by the federal  
111 government, under 8 U.S.C. 1373(c). A determination of such status of  
112 an individual by the federal government shall create a rebuttable  
113 presumption as to that individual's status in any judicial proceedings  
114 brought under this section. The court may take judicial notice of any  
115 verification of an individual's status previously provided by the federal  
116 government and may request the federal government to provide  
117 automated or testimonial verification under 8 U.S.C. 1373(c).

28.824. 1. All law enforcement officers shall inquire into the  
2 citizenship and immigration status of any person detained for a  
3 violation of any state law or municipal ordinance, regardless of the  
4 person's national origin, ethnicity, or race, where such inquiry does not  
5 significantly expand the duration of the detention. In all such cases  
6 where a person indicates that he or she is not a citizen or national of  
7 the United States, the law enforcement agent shall verify with the  
8 federal government whether the alien is lawfully or unlawfully present  
9 in the United States, under 8 U.S.C. 1373(c). If the alien is verified to  
10 be unlawfully present in the United States, the law enforcement officer  
11 shall cooperate with any request by federal immigration authorities to  
12 detain the alien or transfer the alien to the custody of the federal  
13 government.

14 2. Under 8 U.S.C. 1373 and 1644, no official, personnel or agent

15 of a city, county, or state law enforcement agency may be prohibited or  
16 in any way restricted from sending, receiving, or maintaining,  
17 information regarding the immigration status, lawful or unlawful, of  
18 any individual, or exchanging such information with any other federal,  
19 state or local government entity. No city, county, or state law  
20 enforcement agency may by ordinance, official policy, or informal  
21 policy, prevent its officers from asking individuals their citizenship or  
22 immigration status.

23 3. The state of Missouri, through the department of public safety,  
24 shall as quickly as practicable enter into a cooperative agreement with  
25 the United States Department of Homeland Security, under 8 U.S.C.  
26 1357(g), to designate specific state law enforcement officers as officers  
27 qualified to exercise the enforcement powers of federal immigration  
28 officers in the United States. The state may negotiate the cooperative  
29 agreement or participate in its implementation in partnership with  
30 other state or local law enforcement agencies.

31 4. Any law enforcement agency shall be deemed to be in violation  
32 of this section if director of the department of public safety determines  
33 that such a violation has occurred. An agency found to be in violation  
34 of this section shall be ineligible for state funding until it can prove to  
35 the Missouri attorney general that it is in compliance with this section.

28.827. 1. There is hereby established within the office of  
2 secretary of state the "Division of Immigration Compliance".

3 2. The primary mission of the division is to:

4 (1) Enforce the provisions of sections 28.800 to 28.821;

5 (2) To communicate with the federal government to verify the  
6 status of any alien under 8 U.S.C. 1373(c);

7 (3) To communicate with any city or county housing authority  
8 created under section 99.040, RSMo, for purposes of determining  
9 immigration status under 8 U.S.C. 1373(c) and enforcing sections 28.800  
10 to 28.821. If no such housing authority exists encompassing an area,  
11 the division will communicate with the applicable municipal or county  
12 governing body to enforce this section; and

13 (4) To compile an annual report documenting detailed  
14 experience and general compliance with the Missouri Omnibus  
15 Immigration Act to be submitted with recommendations to the governor  
16 and the general assembly no later than January first of each year.

17           **3. Any rule or portion of a rule, as that term is defined in section**  
18 **536.010, RSMo, that is created under the authority delegated in this**  
19 **section shall become effective only if it complies with and is subject to**  
20 **all of the provisions of chapter 536, RSMo, and, if applicable, section**  
21 **536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
22 **and if any of the powers vested with the general assembly pursuant to**  
23 **chapter 536, RSMo, to review, to delay the effective date, or to**  
24 **disapprove and annul a rule are subsequently held unconstitutional,**  
25 **then the grant of rulemaking authority and any rule proposed or**  
26 **adopted after August 28, 2007, shall be invalid and void.**

**28.830. 1. Sections 28.800 to 28.833, section 79.980, RSMo, section**  
2 **172.360, RSMo, section 174.130, RSMo, section 175.025, RSMo, sections**  
3 **178.635, 178.780, 178.786, RSMo, section 208.009, RSMo, section 285.025,**  
4 **RSMo, and section 290.560, RSMo, shall be construed so as to be fully**  
5 **consistent with federal immigration and labor laws.**

6           **2. Sections 28.800 to 28.812 shall be construed so as to be fully**  
7 **consistent with existing Missouri labor laws.**

8           **3. The requirements and obligations of this section shall be**  
9 **implemented in a manner fully consistent with federal law regulating**  
10 **immigration and protecting the civil rights of all citizens and aliens.**

**28.833. If any provision of sections 28.800 to 28.833, section**  
2 **79.980, RSMo, section 172.360, RSMo, section 174.130, RSMo, section**  
3 **175.025, RSMo, sections 178.635, 178.780, 178.786, RSMo, section 208.009,**  
4 **RSMo, section 285.025, RSMo, and section 290.560, RSMo, or the**  
5 **application of any such provision to any person or circumstance is held**  
6 **invalid, the invalidity shall not affect other provisions or applications**  
7 **of sections 28.800 to 28.236, section 79.980, RSMo, section 172.360, RSMo,**  
8 **section 174.130, RSMo, section 175.025, RSMo, sections 178.635, 178.780,**  
9 **178.786, RSMo, section 208.009, RSMo, section 285.025, RSMo, and**  
10 **section 290.560, RSMo, which can be given effect without the invalid**  
11 **provision or application, and to this end the provisions of this code are**  
12 **declared to be severable.**

**79.980. Any city, village, or town may enact any ordinance**  
2 **restricting the rental of housing to an alien unlawfully present in the**  
3 **United States and imposing fines of any amount upon violators of such**  
4 **an ordinance. Any city, village, or town may enact any ordinance**  
5 **prohibiting the employment of unauthorized aliens or other unlawful**

6 workers, may deny business licenses to employers who employ  
7 unauthorized aliens or other unlawful workers, and may allow lawful  
8 employees to bring suit against such employers to recover treble  
9 damages and reasonable attorney's fees.

172.360. 1. All youths, resident of the state of Missouri, shall be admitted  
2 to all the privileges and advantages of the various classes of all the departments  
3 of the University of the State of Missouri[;], provided[,] that each applicant for  
4 admission [therein] shall possess such scholastic attainments and mental and  
5 moral qualifications as shall be prescribed in rules adopted and established by  
6 the board of curators[; and provided further, that]. **However, aliens**  
7 **unlawfully present in the United States shall not be eligible for**  
8 **admission to the university.** The board of curators may charge and collect  
9 reasonable tuition and other fees necessary for the maintenance and operation of  
10 all departments of the university, as they may deem necessary.

11 2. **Prior to approval of any appropriations by the general**  
12 **assembly for the University of Missouri, the registrar for each campus**  
13 **of the University of Missouri shall annually certify to the education**  
14 **appropriations committee of the house of representatives and the**  
15 **appropriations committee of the senate that its campus has not**  
16 **knowingly admitted any aliens unlawfully present in the United States**  
17 **in the preceding year.**

174.130. 1. Each board may make such rules and regulations for the  
2 admission of students as may be deemed proper. **However, aliens unlawfully**  
3 **present in the United States shall not be eligible for admission to the**  
4 **university or college.**

5 2. **Prior to approval of any appropriations by the general**  
6 **assembly for the university or college, the registrar for each university**  
7 **or college shall annually certify to the education appropriations**  
8 **committee of the house of representatives and the appropriations**  
9 **committee of the senate that its university or college has not knowingly**  
10 **admitted any aliens unlawfully present in the United States in the**  
11 **preceding year.**

175.025. 1. The board of curators of Lincoln University may  
2 make such rules and regulations for the admission of students as it may  
3 be deemed proper; provided that aliens unlawfully present in the  
4 United States shall not be eligible for admission to the university.

5 2. **Prior to approval of any appropriations by the general**

6 **assembly for the university, the registrar shall annually certify to the**  
7 **education appropriations committee of the house of representatives**  
8 **and the appropriations committee of the senate that the university has**  
9 **not knowingly admitted any aliens unlawfully present in the United**  
10 **States in the preceding year.**

178.635. 1. The board of regents of Linn State Technical College shall  
2 organize in the manner provided by law for the board of curators of the  
3 University of Missouri. The powers, duties, authority, responsibilities, privileges,  
4 immunities, liabilities and compensation of the board of Linn State Technical  
5 College in regard to Linn State Technical College shall be the same as those  
6 prescribed by statute for the board of curators of the University of Missouri in  
7 regard to the University of Missouri, except that Linn State Technical College  
8 shall be operated only as a state technical college. Nothing in this section shall  
9 be construed to authorize Linn State Technical College to become a community  
10 college or a university offering four-year or graduate degrees.

11 2. All lawful bonded indebtedness incurred by the issuance of revenue  
12 bonds, as defined in section 176.010, RSMo, by Linn Technical College, shall be  
13 deemed to be an indebtedness of the board of regents of Linn State Technical  
14 College after the date upon which the conditions of section 178.631 are met. Such  
15 indebtedness shall be retired through tuition revenues.

16 **3. The board of regents may make such rules and regulations for**  
17 **the admission of students as it may be deemed proper. However, aliens**  
18 **unlawfully present in the United States shall not be eligible for**  
19 **admission to Linn State Technical College.**

20 **4. Prior to approval of any appropriations by the general**  
21 **assembly for Linn State Technical College, the registrar shall annually**  
22 **certify to the education appropriations committee of the house of**  
23 **representatives and the appropriations committee of the senate that**  
24 **the college has not knowingly admitted any aliens unlawfully present**  
25 **in the United States in the preceding year.**

178.780. 1. Tax supported junior colleges formed prior to October 13,  
2 1961, and those formed under the provisions of sections 178.770 to 178.890 shall  
3 be under the supervision of the coordinating board for higher education.

4 2. The coordinating board for higher education shall:

5 (1) Establish the role of the two-year college in the state;

6 (2) Set up a survey form to be used for local surveys of need and potential

7 for two-year colleges; provide supervision in the conducting of surveys; require  
8 that the results of the studies be used in reviewing applications for approval; and  
9 establish and use the survey results to set up priorities;

10 (3) Require that the initiative to establish two-year colleges come from the  
11 area to be served;

12 (4) Administer the state financial support program;

13 (5) Supervise the junior college districts formed under the provisions of  
14 sections 178.770 to 178.890 and the junior colleges now in existence and formed  
15 prior to October 13, 1961;

16 (6) Formulate and put into effect uniform policies as to budgeting, record  
17 keeping, and student accounting;

18 (7) Establish uniform minimum entrance requirements and uniform  
19 curricular offerings for all junior colleges **and ensure that aliens unlawfully**  
20 **present in the United States are not eligible for admission to any junior**  
21 **college;**

22 (8) Make a continuing study of junior college education in the state; and

23 (9) Be responsible for the accreditation of each junior college under its  
24 supervision. Accreditation shall be conducted annually or as often as deemed  
25 advisable and made in a manner consistent with rules and regulations  
26 established and applied uniformly to all junior colleges in the state. Standards  
27 for accreditation of junior colleges shall be formulated with due consideration  
28 given to curriculum offerings and entrance requirements of the University of  
29 Missouri.

**178.786. Prior to approval of any appropriations by the general**  
2 **assembly for a junior college, the registrar for the college shall**  
3 **annually certify to the education appropriations committee of the**  
4 **house of representatives and the appropriations committee of the**  
5 **senate that its junior college has not knowingly admitted any aliens**  
6 **unlawfully present in the United States in the preceding year.**

**208.009. 1. No alien unlawfully present in the United States shall**  
2 **receive any state or local public benefit, except for state or local public**  
3 **benefits that are required to be offered by 8 U.S.C. 1621(b). Nothing in**  
4 **this section shall be construed to prohibit the rendering of emergency**  
5 **medical care, emergency assistance, or legal assistance to any person.**

6 **2. As used in this section "public benefit" means any grant,**  
7 **contract, loan, or license provided by an agency of state or local**

8 government; or any retirement, welfare, health, disability, housing,  
9 postsecondary education, food assistance, or unemployment benefit  
10 under which payments, assistance, credits, or reduced rates or fees are  
11 provided.

12 3. In addition to providing proof of other eligibility  
13 requirements, at the time of application for any state or local public  
14 benefit, an applicant who is eighteen years of age or older shall provide  
15 affirmative proof that the applicant is a citizen or a permanent resident  
16 of the United States or is lawfully present in the United States. Such  
17 affirmative proof shall include documentary evidence recognized by the  
18 department of revenue when processing an application for a driver's  
19 license, as well as any document issued by the federal government that  
20 confirms an alien's lawful presence in the United States.

21 4. An applicant who cannot provide the proof required under  
22 this section at the time of application may alternatively sign an  
23 affidavit under oath, attesting to either United States citizenship or  
24 classification by the United States as an alien lawfully admitted for  
25 permanent residence, in order to receive temporary benefits or  
26 temporary identification document as provided in this section. The  
27 affidavit shall include the applicant's Social Security number and an  
28 explanation of the penalties under state law for obtaining public  
29 assistance benefits fraudulently.

30 5. An applicant who has provided the sworn affidavit required  
31 under subsection 4 of this section is eligible to receive temporary  
32 public benefits as follows:

33 (1) For ninety days or until such time that it is determined that  
34 the applicant is not lawfully present in the United States, whichever is  
35 earlier; or

36 (2) Indefinitely if the applicant provides a copy of a completed  
37 application for a birth certificate that is pending in Missouri or some  
38 other state. An extension granted under this subsection shall terminate  
39 upon the applicant's receipt of a birth certificate or a determination  
40 that a birth certificate does not exist because the applicant is not a  
41 United States citizen.

42 6. An applicant who is an alien shall not receive any state or  
43 local public benefit unless the alien's lawful presence in the United  
44 States is first verified by the federal government, under 8 U.S.C.

45 **1373(c). State and local agencies administering public benefits in this**  
46 **state shall cooperate with the United States Department of Homeland**  
47 **Security in achieving verification of an alien's lawful presence in the**  
48 **United States in furtherance of this section. The system utilized may**  
49 **include the Systematic Alien Verification for Entitlements Program**  
50 **operated by the United States Department of Homeland Security.**

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